

United States District Court

NORTHERN DISTRICT OF CALIFORNIA

FILED

NOV 20 2007

UNITED STATES OF AMERICA

Venue: San Francisco

V.

ORIGINAL

CRIMINAL COMPLAINT

JUAN HERRERA-SANTOS

CASE NUMBER:

3 07 70692

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

R7

I, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about November 13, 2007 in San Francisco County, in the Northern District of California defendant(s) did,

Offense: On or about October 3, 2001, September 7, 2002, April 9, 2003, April 22, 2005, July 1, 2005, November 30, 2005, November 28, 2006, and February 22, 2007, the defendant, JUAN HERRERA-SANTOS, an alien, was excluded, deported and removed from the United States, and thereafter, on or about September 17, 2007, was found in the Northern District of California, the Attorney General of the United States and the Secretary for Homeland Security not having expressly consented to a re-application by the defendant for admission into the United States, in violation of Title 8 United States Code, § 1326.

I further state that I am a Deportation Officer and that this complaint is based on the following facts:

Official Title

SEE ATTACHED AFFIDAVIT IN SUPPORT OF THIS COMPLAINT

Penalties: Imprisonment for not more than 20 years, a fine of not more than \$250,000.00, a \$100.00 dollar special assessment, and not more than 3 years supervised release.

APPROVED AS TO FORM:

ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ NoWarrant of Arrest Requested: ☐ Yes ☒ NoBail Amount: **NO BAIL**

Signature of Complainant

Sworn to before me and subscribed in my presence,

Date

Honorable Bernard Zimmerman

United States Magistrate Judge

Name & Title of Judicial Officer

at San Francisco, California

City and State

Signature of Judicial Officer

STATE AND NORTHERN DISTRICT OF CALIFORNIA)
) ss, AFFIDAVIT
CITY AND COUNTY OF SAN FRANCISCO)

I, Cesar J. Lopez, Deportation Officer, U.S. Immigration and Customs Enforcement (ICE), being duly sworn, depose and state:

I. INTRODUCTION AND PURPOSE OF AFFIDAVIT

1. This affidavit is submitted in support of a criminal complaint against JUAN HERRERA-SANTOS, for violating 8 U.S.C. § 1326. The facts set forth in this Affidavit are based on my review of HERRERA-SANTOS'S official Immigration Service file (No. 79 371 708), my personal observations, my training and experience, and where noted, information related to me by other law enforcement officials. However, the facts set forth in this Affidavit are not all facts related to HERRERA-SANTOS that I know.

II. AGENT BACKGROUND AND EXPERTISE

2. I have been a Deportation Officer with the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), formerly the United States Department of Justice, Immigration and Naturalization Service, for approximately 19 years. I am currently assigned under the Field Office Director, San Francisco, California in the Detention and Removal Operations Division. I am assigned to the Prosecutions Unit of the Criminal Alien Program, a group responsible for enforcing federal criminal statutes involving aliens who reenter the U.S. illegally. In this capacity, I have reviewed the official DHS file (A79 371 708) and automated DHS data related to HERRERA-SANTOS.

III. APPLICABLE LAW

3. Title 8 U.S.C. § 1326 provides criminal penalties for “any alien who . . . has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding, and thereafter enters, attempts to enter, or is at any time found in, the United States, unless (A) prior to his reembarkation at a place outside the United States or his application for admission from foreign contiguous territory, the Attorney General has expressly consented to such alien’s reapplying for admission; or (B) with respect to an alien previously denied admission and removed, unless such alien shall establish that he was not required to obtain such advance consent under this chapter or any prior Act”

IV. FACTS ESTABLISHING PROBABLE CAUSE

4. JUAN HERRERA-SANTOS, JR. is a 28 year-old male who is a native and citizen of Mexico. HERRERA-SANTOS last entered the United States illegally by crossing the international border on an unknown date in April 2007, and knowingly remained in the United

States without first having obtained the consent to reapply for admission from the Attorney General of the United States or the United States Secretary of Homeland Security.

5. HERRERA-SANTOS'S official Alien Registration File (# A79 371 708) contains eight executed Warrants of Removal. The Warrants of Removal are dated as follows:

- October 3, 2001, deported from the U.S. to Mexico at Nogales, AZ;
- September 7, 2002, deported from the U.S. to Mexico at San Ysidro, CA;
- April 9, 2003, deported from the U.S. to Mexico at San Ysidro, CA;
- April 22, 2005, deported from the U.S. to Mexico at Nogales, AZ;
- July 1, 2005, deported from the U.S. to Mexico at Calexico, CA;
- November 30, 2005, deported from the U.S. to Mexico at Nogales, AZ;
- November 28, 2006, deported from the U.S. to Mexico at San Ysidro, CA; and
- February 22, 2007, deported from the U.S. to Mexico at Nogales, AZ.

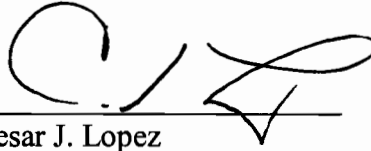
6. On September 17, 2007, ICE Officers encountered HERRERA-SANTOS at San Francisco County Jail. On November 13, 2007, ICE Agent Darin Momrow interviewed HERRERA-SANTOS in San Francisco, California. After Agent Momrow advised HERRERA-SANTOS of his Miranda rights and his right to speak with consular or diplomatic officers of his country of citizenship, HERRERA-SANTOS waived those rights and provided a sworn statement. In that statement, HERRERA-SANTOS admitted that his true and correct name is JUAN HERRERA-SANTOS, that he was born in Chiapas, Mexico and is a citizen of Mexico. HERRERA-SANTOS admitted that he had previously been removed from the U.S., and that he most recently reentered the U.S. in April of 2007 at Tijuana, Mexico. He also admitted that he never applied for permission to reenter the U.S. from the Attorney General or the Secretary of Homeland Security.

7. On November 14, 2007, a full set of rolled fingerprints belonging to HERRERA-SANTOS was submitted to the Automated Fingerprint Identification Center to verify HERRERA-SANTOS's identity. The fingerprint examiner positively identified the fingerprints as belonging to the JUAN HERRERA-SANTOS who had previously been removed from the United States as described above in paragraph five.

8. There is no indication in ICE's official files that HERRERA-SANTOS has ever applied for or been granted the requisite permission to reenter the United States from either the Attorney General or the Secretary of Homeland Security. HERRERA-SANTOS also admitted, in his sworn statement, that he had never applied to the Attorney General or the Secretary of Homeland Security for permission to reenter the U.S. after he was removed from the country.

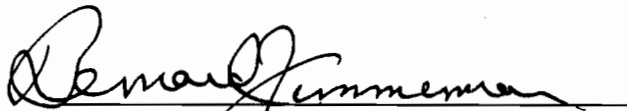
V. CONCLUSION

10. On the basis of the facts above, I submit that probable cause exists to believe that JUAN HERRERA-SANTOS illegally reentered the United States following deportation in violation of 8 U.S.C. § 1326.



Cesar J. Lopez
Deportation Officer
U.S. Department of Homeland Security
Immigration and Customs Enforcement
San Francisco, California

Subscribed and sworn to before me this 20 day of November, 2007.



The Honorable Bernard Zimmerman
United States Magistrate Judge
Northern District of California
San Francisco, California